

1934 Supplement  
To  
**Mason's Minnesota Statutes**  
1927

(1927 to 1934)  
(Superseding Mason's 1931 Supplement)

Containing the text of the acts of the 1929, 1931, 1933 and 1933-34 Special Sessions of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state, federal, and the opinions of the Attorney General, construing the constitution, statutes, charters and court rules of Minnesota



Edited by

WILLIAM H. MASON, Editor-in-Chief  
W. H. MASON, JR. }  
R. O. MASON } Assistant Editors  
J. S. O'BRIEN }

CITER- DIGEST CO.  
SAINT PAUL, MINNESOTA.  
1934

of such examination, fix and determine. In case of default in the payment of any amount so ascertained to be due, together with the expense incurred in making such examination, for a period of twenty days after notice to such delinquent individual or organization of the amount at which the same may be fixed by the state auditor, such delinquent shall, ipso facto, forfeit and shall be thereby disqualified from receiving any new license or any renewal of license; and shall in addition forfeit to the state of Minnesota the sum of Five Hundred Dollars (\$500.00), which may be recovered by the Attorney General in the name of the state of Minnesota in the same manner as other

penalties are by law recovered. (Act Jan. 28, 1933, c. 7, §15.)

**3260-16. Acts repealed.**—Mason's Minnesota Statutes of 1927, Sections 3251 to 3260, inclusive, are hereby repealed. (Act Jan. 28, 1933, c. 7, §16.)

**3260-17. Acts repealed.**—Mason's Minnesota Statutes of 1927, Section 10286 so far as inconsistent with this Act is hereby repealed. (Act Jan. 28, 1933, c. 7, §17.)

**3260-18. Effective May 1, 1933.**—This act shall take effect and be in force from and after May 1, 1933. (Act Jan. 28, 1933, c. 7, §18.)

## CHAPTER 17

### Illegitimate Children—Bastards

#### 3261. Complaint—Where filed—Warrant.

At common law the father was not charged with the support of his illegitimate child, and the bastardy statute charges the father with the support of such child and furnishes the only remedy. 175M547, 221NW911.

Husband and wife are competent to give evidence that the former is not the father of a child of the wife conceived before the dissolution of the marriage by divorce. State v. Soyka, 181M533, 233NW300. See Dun. Dig. 10312. Bastardy proceeding is civil in character rather than criminal. State v. Hanson, 187M235, 244NW809. See Dun. Dig. 827.

#### 3262. Action, how entered—Proceedings.

A bastardy proceeding is a civil proceeding, not a criminal action, and defendant may be called by prosecution for cross-examination. State v. Jeffrey, 247NW692. See Dun. Dig. 827(76).

#### 3265. Trial—Exclusion of public, etc.

Verdict in bastardy case held not sustained by evidence. 173M294, 217NW118.

Evidence held sufficient to sustain a conviction. 173M627, 218NW110.

Where defendant was adjudged father of illegitimate child and was directed to pay certain sums for its support to a child welfare board which agreed to pay such sums to the plaintiff for boarding and caring for the child, plaintiff could sue the welfare board for sums received by it. Salvay v. R., 175M484, 221NW719.

Exclusion of evidence of intercourse with third person

at indefinite prior time, held proper, and evidence of promise to marry during period of illicit relation was admissible. 179M80, 228NW335.

Evidence held to support conviction. 179M436, 229NW564.

Defendant in filiation proceeding held not entitled to dismissal for lack of speedy trial because of his own conduct contributing to delay. State v. Hanson, 187M235, 244NW809. See Dun. Dig. 842, 2469.

Mother of illegitimate is not entitled to recover from adjudged father money expended by her in care and support of child; father having been ordered by district court to make periodical payments to a county welfare board. Lawson v. M., 248NW658.

Guardian of illegitimate child may claim payments after death of father but only those that had matured at time of death. Op. Atty. Gen., Aug. 21, 1933.

#### 3266. Father to pay all expenses.

Lawson v. M., 248NW658; note under §3265.

#### 3268. Hearing—Judgment.

Conviction of bastardy, held free from error. 181M374, 232NW624. See Dun. Dig. 827.

#### 3270. Procedure—Warrant.

Indication by court that instructions given were requested by one of the parties, held error. 181M374, 232NW624. See Dun. Dig. 9776(13).

#### 3272.

Lawson v. M., 248NW658; note under §3265.

## CHAPTER 18

### Public Examiner

#### 3274. Department established—Powers and duties.

Comptroller has no authority to comply with request to make audit of tally sheets of election. Op. Atty. Gen., May 19, 1932.

Counties, cities, villages, towns, or school districts, except municipalities expressly or impliedly authorized by their charters, may not validly incur expense for examination of accounts and affairs by anyone other than the state comptroller. Op. Atty. Gen., Mar. 31, 1933.

#### 3277. Reports of examinations—Violations of law.

Petition for audit of affairs of city is not part of audit made by state examiner, and is not public record as defined in this section, but public examiner is not prohibited from divulging matter contained in such petition. Op. Atty. Gen., May 28, 1932.

**3278. Fees for examination of counties.**—All the powers and duties conferred and imposed upon the public examiner in the foregoing sections shall be exercised and performed by him in respect to the offices, institutions, public property and improvements of the several counties of the state of Minnesota. At least once in each year, the public examiner shall visit, without previous notice, each of such counties and make a thorough examination of all accounts and records relating to the receipt and disbursement of the public funds and the custody of the public funds and other property. He shall prescribe and install systems of accounts and financial reports, that shall be uniform so far as practicable for the same class of offices. A copy of the report of such examination shall be filed and subject to public inspection in the office of the public examiner, and another copy

in the office of the county auditor of the county thus examined; provided, that if any such examination shall disclose malfeasance, misfeasance, or nonfeasance in the office of such county, such report shall be filed with the county attorney of said county, and it shall be the duty of such county attorney to institute such civil and criminal proceedings, as the law and the protection of the public interests shall require.

The county receiving such examination shall pay to the state the total cost and expenses of such examination, including the salaries paid to the examiners while actually engaged in making such examination, provided, that such salary charge shall not exceed \$10.00 per day. The appropriation accounts of the comptroller shall be credited with all collections made for any such examinations, and said moneys so collected are hereby appropriated for the use and purposes of said accounts. (G. S. '13, §3231; '13, c. 555, §5; Apr. 9, 1931, c. 125, and Apr. 20, 1931, c. 246.)

Op. Atty. Gen., Apr. 13, 1933; note under §3286-1.

Where county has made an excessive payment of clerk hire, county attorney has authority independent of the county board to institute an action to recover moneys disclosed by the comptroller's report to have been illegally paid out. Op. Atty. Gen., Jan. 9, 1932.

A county may not hire a private auditor to investigate ditch account. Op. Atty. Gen., Apr. 13, 1933.

A village may not employ a private auditor to examine alleged shortage in office of treasurer. Id.